Civil Misc. App. No.36/2005
Anil Kumar Bhargava & Anr.
Versus Sanjay Singh & Ors.

Date of Order ::: 17/07/06

Hon'ble Mr. Justice Ajay Rastogi

Mr. Ashok Sharma, for appellants (claimants)

Instant appeal has been filed by parents of deceased Master Kushwant aged 18 years died in a motor accident on 19/09/2000. Vide Award dt.04/10/04 in MAC No.349/2004, Motor Accident Claims Tribunal (Special Judge, Fake Currency Note Cases) Jaipur City Jaipur awarded total compensation of Rs.2,51,400/- under different heads including loss of income and love affection to parents.

As alleged in claim petition, deceased Master Kushwant passed out his Senior Secondary School Examination and was a very talented student and while undergoing studies, started earning of Rs.3,000/-per month from computer job as is evident from salary certificate (Ex.11) issued by Shailendra Bhargava (Aw4) even at such tender age. learned Tribunal took note of salary certificate produced on record, yet considered Rs.2,100/- as monthly income and thereafter 1/3rd deduction towards his personal expenses, Rs.1400/- was considered as loss of income to the family of deceased and looking to his age, multiplier of 13 was applied and awarded a compensation of Rs.2,51,400/- (including Rs.8,000/- as damages to the scooter and Rs.25,000/- towards love & affection and funeral expenses) alongwith interest 6% per annum. Hence this appeal.

Counsel for appellants submits that income

assessed and interest awarded by Tribunal is much on lower side and that apart, future prospects of deceased have not been considered while assessing loss of income to the family, and it requires enhancement by this Court.

I have considered contention of Counsel for appellants and with his assistance examined material on record. It is true that loss which parents have suffered on account of death of their grown up child, in no manner can be compensated but what is expectable to the destiny, no one is there to help and the statute provides for compensation to their mental agony and love & affection. Learned Tribunal observed that the deceased was talented student. It took note of income certificate and proceeded on the premise that ordinarily student of 12th standard howsoever might be brilliant but ordinarily his income would not be more than Rs.2,100/- despite certificate produced and it proceeded to determined on that basis and after 1/3rd deduction towards personal expenses, rest 2/3rd was determined as financial dependency to the family and awarded compensation of Rs.2,18,400/- towards loss of income by applying multiplier of 13 keeping in view age of deceased as per Schedule appended to the Motor Vehicle Act and that apart, awarding Rs.8,000/- towards damages to scooter and Rs.25,000/- in all towards other heads including funeral expenses, mental agony and love & affection. In my opinion, may be under different heads what has been determined is compensation to parents with regard to their loss of love & affection and primarily income of their son will not put any financial loss to the family. Thus

what learned tribunal under different heads has finally awarded including loss of income in totality is just and does not require any interference. So far as interest part is concerned, Tribunal awards 6% per annum interest, which has been rightly adopted. I do not find any illegality in the impugned Award.

Consequently, this appeal fails and is hereby dismissed in limine.

(Ajay Rastogi), J.

K.Khatri/36CMA2005.